

STATE OF CALIFORNIA
DEPARTMENT OF CORPORATIONS

TEXT OF PROPOSED CHANGES
UNDER THE CONFLICT OF INTEREST CODE
PURSUANT TO NOTICE
DATED: September 11, 2003

1. Section 250.30 is amended to read:

250.30. General Provisions

(a) Authority. This Conflict of Interest Code has been adopted pursuant to the provisions of Government Code § Sections 87300, et seq. It is separate and apart from the requirements and prohibitions set forth in § Section 260.607 of this title. All employees should refer to that section for additional requirements and prohibitions.

(b) General prohibitions. All employees of the Department of Corporations are subject to the provisions for disqualification set forth in Government Code § Sections 87100 and 87103.

(c) References. The Political Reform Act is set forth in § Sections 87100 et seq. of the Government Code. The Regulations of the Fair Political Practices Commission are set forth in division 6, Title 2, California Code of Regulations. Copies of the Government Code and Title 2 of the California Code of Regulations are available in each library of the Department of Corporations.

(d) The Code. Set forth below is the Conflict of Interest Code of the Department of Corporations.

CONFLICT OF INTEREST CODE FOR THE
DEPARTMENT OF CORPORATIONS

The Political Reform Act, Government Code § Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, Title 2 California Code of Regulations § Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of Title 2 California Code of Regulations § Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department of Corporations with the exception and addition provided below.

Designated employees shall file statements of economic interests with the Manager of Human Resources of the Department of Corporations, (under the supervision of the ~~Assistant~~ Deputy Commissioner of the Office of Management and Budget and consultation of the ~~Assistant~~ Deputy Commissioner and General Counsel) to whom the agency has delegated the authority to carry out the duties of filing officer. Upon receipt of the statement of the Commissioner of Corporations, the Manager of Human Resources shall make and retain a copy and forward the original of this statement to the Fair Political Practices Commission. The Department will make the statements available for public inspection and reproduction in accordance with Government Code § Section 81008.

Exception: As provided in § Section 1 of the standard Code, Title 2 California Code of Regulations § Section 18730(b)(1), the definitions contained in the Political Reform Act of 1974 shall apply to the terms used in this Code except that the term "business entity" shall apply to any

organization or enterprise whether or not operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

Addition: A business entity or source of income does business in the state, plans to do business in the state, or has done business in the state within the past two years within the meaning of Government Code § Sections 82030 and 82034, incorporated by reference into this Code by § Section 1 of the standard Code, Title 2 California Code of Regulations § Section 18730(b)(1), in addition to any meaning those terms might otherwise have, if it has applied for or received a permit, registration, certificate, order or opinion from the Commissioner or if it is subject to any investigation by the Commissioner.

Prohibition on Honoraria. As provided in Section 8 of the standard Code, Title 2 California Code of Regulations Section 18730(b)(8), the prohibition on honoraria and the definition of "honorarium" contained in the Political Reform Act of 1974 shall apply to this Code. Title 2, Section 18730(b)(8) of the California Code of Regulations and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference.

Gifts. As provided in Section 8.1 of the standard code, Title 2 California Code of Regulations Section 18730(b)(8.1), the limitation on gifts contained in the Political Reform Act of 1974 shall apply to this Code. Title 2, Section 18730(b)(8.1) of the California Code of Regulations and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference.

Note: Authority cited: Sections 87300 and 87306, Government Code, and Section 25610, Corporations Code. Reference: Sections 87300, et seq., Government Code, and Section 25607, Corporations Code.

APPENDIX

Designated Employees	Disclosure Categories
Commissioner of Corporations	A
Chief Deputy Commissioner of Corporations	A
<u>Deputy Commissioners, Assistant Commissioners, and General Counsel</u>	A
Staff Assistant, or Advisor to the Commissioner	A
<u>All Special Assistants or Advisors to the Commissioner (regardless of classification)</u>	A
Assistant Commissioner	A
Legislative Coordinator	A
Counsel assigned to the Office of Law & Legislation	A
<u>All other Counsel (regardless of rank) assigned to the Securities Regulation Division</u>	B
Counsel assigned to the Enforcement & Legal Services Division	B
Supervising or Examiner IV <u>Examiners and Auditors (regardless of rank) assigned to the</u> <u>Securities Regulation Division and Enforcement & Legal Services Division</u>	B
Supervising or Examiner IV assigned to the <u>Enforcement & Legal Services Division</u>	B
Regional Manager, Supervising Investigator and Associate Investigator assigned to the <u>Enforcement & Legal Services Division</u>	B
Supervising or Examiner IV <u>Examiners and Auditors (regardless of rank) assigned to the</u> <u>Financial Services Division</u>	C
Librarian	D
Data Processing Manager	D

<u>All Information Technology Staff assigned to arrange contracts and/or solicit bids</u>	<u>D</u>
Accounting Office Supervisor	D
Business Services Officer	D
<u>All contract analysts and procurement staff</u>	<u>D</u>
<u>All Staff Services Managers (regardless of rank) assigned to the Office of Management & Budget</u>	<u>D</u>
Office Manager	D
Operations Officer	D
Consultant*	

Disclosure Categories

Category A.

Each "designated employee" in this category shall report:

(1) Any investment and business position in a business entity, and income, including gifts, loans and travel payments, from any source, or representative thereof, which has transacted business with the Department or been the subject of any legislation or rulemaking activity during the preceding two years or which the designated employee knows or has reason to know will transact business with the Department or be the subject of any legislation or rulemaking activity.

(2) ~~Any investment in any business entity, or any representative thereof, which has transacted business with the Department or been the subject of any legislation or rulemaking activity during the preceding two years or which the designated employee knows or has reason to~~

~~know will transact business with the Department or be the subject of any legislation or rulemaking activity.~~

~~(3) Any business position in any business entity, except a business entity not operated for profit, or with any representative thereof, which has transacted business with the Department or been the subject of any legislation or rulemaking activity during the preceding two years or which the designated employee knows or has reason to know will transact business with the Department or be the subject of any legislation or rulemaking activity.~~

~~(4)~~ (2) Any interest in real property which during the preceding two years has been, or which the designated employee knows or has reason to know may be rented, leased or sold to or rented, leased or purchased from, a business entity, or representative thereof, which has transacted business with the Department or been the subject of any legislation or rulemaking activity during the preceding two years or which the designated employee knows or has reason to know will transact business with the Department or be the subject of any legislation or rulemaking activity.

~~(5)~~ (3) For purposes of this category, "transacting business with the Department" includes, but is not limited to, any activity or contact with the Department in connection with a permit, order, registration, license, certificate, opinion, complaint or enforcement action. A business entity or source has been or will be "the subject of any legislation or rulemaking activity" if the business entity or source is, was, will be, or would have been affected by any legislation or rule in connection with the laws over which the Commissioner has jurisdiction, whether or not such legislation or rule was enacted, adopted, amended or repealed.

Category B.

Each "designated employee" in this category shall report:

(1) Any investment and business position in a business entity, and income, including gifts, loans and travel payments, from any source, or representative thereof, with which the designated employee has transacted business during the preceding two years or, in light of his or her specific functions and duties within the Department, knows or has reason to know that he or she will transact business on behalf of the Department.

~~(2) — Any investment in any business entity, or representative thereof, with which the designated employee has transacted business during the preceding two years or, in light of his or her specific functions and duties within the Department, knows or has reason to know that he or she will transact business on behalf of the Department.~~

~~(3) — Any business position held in any business entity, except a business entity not operated for profit, or with any representative thereof, with which the designated employee has transacted business during the preceding two years or, in light of his or her specific functions and duties within the Department, knows or has reason to know that he or she will transact business on behalf of the Department.~~

(4) (2) Any interest in real property which during the preceding two years has been, or which the designated employee knows or has reason to know may be rented, leased or sold to, or rented, leased or purchased from, a business entity, or representative thereof, with which the designated employee has transacted business during the preceding two years or, in light of his or her specific functions and duties within the Department, knows or has reason to know that he or she will transact business on behalf of the Department.

~~(5)~~ (3) For the purposes of this category, "transacting business on behalf of the Department" includes, but is not limited to, preparing or reviewing material in connection with a permit, order, registration, license, certificate, opinion, complaint, enforcement action or legislation or rules in connection with the laws over which the Commissioner has jurisdiction.

~~(6)~~ (4) Absent specific knowledge to the contrary which, in light of his or her specific functions and duties within the Department which would put the employee on notice, a designated employee in Category B has no reason to know that he or she will transact business on behalf of the Department with any business entity which is the issuer of securities exempt from the qualification requirement of the Corporate Securities Law of 1968 by virtue of Subsections (a), (b), (c), (d), (g), (h), (i), (j), (m), (o) or (p) of Section 25100 of that Law.

Category C.

Each "designated employee" in this category shall report:

(1) Any investment and business position in a business entity, and income, including gifts, loans and travel payments, from any source, or representative thereof, which has requested and/or obtained during the preceding two years, or which the designated employee knows or has reason to know will request and/or obtain a license or certificate under the laws administered by the Financial Services Division, or which has been subject to any action, or which he or she knows or has reason to know will be subject to any action, by the Department in connection with the failure to obtain a license or certificate under such laws.

~~(2) — Any investment in any business entity, or representative thereof, which has requested and/or obtained during the preceding two years, or which the designated employee knows or has reason to know will request and/or obtain, a license or certificate under the laws~~

~~administered by the Financial Services Division, or which has been subject to any action, or which he or she knows or has reason to know will be subject to any action, by the Department in connection with the failure to obtain a license or certificate under such laws.~~

~~(3) — Any business position held in any business entity, except a business entity not operated for profit, or with any representative thereof, which has requested and/or obtained during the preceding two years, or which the designated employee knows or has reason to know will request and/or obtain, a license or certificate under the laws administered by the Financial Services Division, or which has been subject to any action, or which he or she knows or has reason to know will be subject to any action, by the Department in connection with the failure to obtain a license or certificate under such laws.~~

~~(4)~~ (2) Any interest in real property, which during the preceding two years has been, or which the designated employee knows or has reason to know may be rented, leased or sold to, or rented, leased or purchased from a business entity, or representative thereof, which has requested and/or obtained during the preceding two years, or which he or she knows has reason to know may request and/or obtain, a license or certificate under the laws administered by the Financial Services Division, or which has been subject to any action, or which he or she knows or has reason to know may be subject to any action, by the Department in connection with the failure to obtain a license or certificate under such laws.

~~(5)~~ (3) The term "laws administered by the Financial Services Division" means the following laws: California Finance Lenders Law, California Residential Mortgage Lending Act, Check Sellers, Bill Payers and Proraters Law, Deferred Deposit Transaction Law and Escrow Law.

Category D.

Each "designated employee" in this category shall report:

(1) Any investment and business position in a business entity, and income, including gifts, loans and travel payments, from any source, or representative thereof, which during the preceding two years has provided, or which the designated employee knows or has reason to know may provide, the Department of Corporations with services, supplies, materials, machines, equipment or office space.

~~(2) — Any investment in any business entity, or representative thereof, which during the preceding two years has provided, or which the designated employee knows or has reason to know may provide, the Department of Corporations with services, supplies, materials, machines, equipment or office space.~~

~~(3) — Any business position held in any business entity except a business entity not operated for profit, or with any representative thereof, which during the preceding two years has provided, or which the designated employee knows or has reason to know may provide, the Department of Corporations with services, supplies, materials, machines, equipment or office space.~~

~~(4)~~ (2) Any interest in real property which during the preceding two years has been, or which the designated employee knows or has reason to know may be rented, leased or sold to, or rented, leased or purchased from, a business entity, or representative thereof, which during the preceding two years has provided, or which he or she knows or has reason to know may provide the Department of Corporations with services, supplies, materials, machines, equipment or office space.

*Consultants shall disclose pursuant to the broadest disclosure category in the Code (Category A) subject to the following limitations:

The Commissioner may determine in writing that a particular consultant, although a "designated position" or "designated employee", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Commissioner's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.